

**TOWN OF BOW MAR, COLORADO
BOARD OF TRUSTEES
MINUTES OF THE REGULAR MEETING ON NOVEMBER 21, 2011**

CALL The regular meeting of the Board of Trustees of the Town of Bow Mar was called for Monday, November 21, 2011, Mayor Rick Pilgrim presiding. The meeting was held at No. 2 Middlefield Road, Columbine Valley, Colorado.

A quorum was declared present at 7:01 p.m.

PRESENT	Mayor	Rick Pilgrim
	Trustees	Merle McKittrick
		John Giese
		Gary Guilford
		Elizabeth Tulloch
		Carrie McLaughlin
		Rick Wilkins
	Attorney	Jack Reutzel, interim Town Attorney
	Clerk/Treasurer	Karen Reutzel
	Police Chief	Greg Bowman for Bret Cottrell
	BMOI Rep.	Jane Carlson
	Citizens	Ann Justen, Chuck Pratt, Jonathan Bush, Tom Leonard, Jack and Barbara Karford

Mayor Pilgrim led the group in the Pledge of Allegiance.

Mayor Rick Pilgrim swore Jack Reutzel in as interim Town Attorney until a permanent replacement is appointed. The Board then commenced with three public hearings.

Public Hearing – Variance Request.

Commissioner Elizabeth Tulloch presented a request for a variance at 5400 Sunset Drive (Kane residence) to locate a garden shed 30 feet from the rear yard setback. ACC recommended approval of the variance request because the proposed location will allow the shed to be shielded from view by existing landscaping. No resident spoke in opposition. A motion was made to approve the variance as requested, 10 feet inside the building envelope, 30 feet from the property line. Tulloch/McKittrick. A roll call vote was held and the motion passed unanimously.

Giese	Yes	McLaughlin	Yes
Guilford	Yes	Tulloch	Yes
McKittrick	Yes	Wilkins	Yes

Public Hearing – Ordinance #267, regarding Accessory Uses, Structures, and Equipment.

Town Attorney Jack Reutzel reported that notice had been published and posted as required by applicable law, and that the Board had jurisdiction to proceed with the public hearing on the ordinance change. Town Clerk Karen Reutzel read the title to the ordinance and the proposed amendment language into the record. Consultant Barb Cole explained that the amendment is intended to establish a more practical standard for the portion of Chapter 16 (Zoning Code) which requires free-standing accessory structures and the like to be shielded and concealed behind a conforming house and shrubs. The prior language which required accessory structures to be shielded “so as not to be visible at any time” (which Ms. Cole noted would be virtually impossible to meet), would be revised to “so as to be substantially shielded from view from any road or from abutting property,” which the Trustees determined to be a more practical and achievable standard. Discussion ensued regarding the meaning of “substantially shielded” and whether the term set a sufficiently objective standard. Town Attorney Reutzel reported that there is a sense of reasonableness attached to the word “substantially.” Mayor Pilgrim read a few definitions for the word “substantially”: “considerable in quantity,” “significantly great,” and “of a noticeably or measurably large amount.” No member of the public made comment on the proposed amendment. A motion was made to approve Ordinance #267 in the form presented to the Board. Tulloch/Giese. Mayor Pilgrim explained that amendments to Chapter 16 require a ¾ vote of the Board to pass. A roll call vote was held and the ordinance was approved by a vote of 5-1.

Giese	Yes	McLaughlin	Yes
Guilford	Yes	Tulloch	Yes
McKittrick	Yes	Wilkins	No

It was announced that the ordinance would take effect in 30 calendar days.

Public Hearing –Ordinance #268, regarding the Care and Keeping of Chicken-Hens.

Town Attorney Jack Reutzel reported that notice had been published and posted as required by applicable law, and that the Board had jurisdiction to proceed with the public hearing on the ordinance change. Town Clerk Karen Reutzel read the title of the ordinance into the record. Ms. Cole discussed minor changes to the proposed ordinance which had been made since the first reading in October. The most significant was modifying the requirement of obtaining the consent of owners of “abutting” properties to obtaining the consent of owners of “contiguous” properties, which is a smaller group. It was discussed that “contiguous” means any neighbor sharing a common property line, no matter how small, but does not include those across the street.

Commissioner Wilkins said he is opposed to the ordinance because he thinks this would be a nuisance to many in the community and questioned whether the Board acted properly by failing to uphold the existing ordinances during the amendment process. Commissioner McLaughlin expressed concern that the Town has not traditionally been

good at enforcement. She said the chicken issue has created a distraction away from what the Board is supposed to be doing in managing the Town. Commissioner Guilford noted that he did not know there was opposition early on in the process, because all he heard was support. Those opposing the proposal were late in expressing their opposition. Commissioner McKittrick said he thought the Board had tried to be responsive to the community. He too did not hear anything except support until late in the process. He thought chickens were acceptable in Town because we have larger lots and a neighborly community.

Mayor Pilgrim commented that we have traditionally used an inclusive decision-making process in Town because we govern by neighborly consent. Therefore any change takes time, because the Town is run by volunteers, with just one employee. He thinks there are plenty of checks and balances in the proposed ordinance.

Commissioner Tulloch expressed that the Board can be neighborly and consider revisions to the municipal code, but in the future, the existing code should be enforced until amendments are put in place. Ms. Cole pointed out that the Columbine police can enforce the proposed ordinance, and in addition, we have an intergovernmental agreement in place with the City of Sheridan for animal control. Commissioner McLaughlin said that she does not think managing chickens is the best use of a volunteer's time.

Mayor Pilgrim said that the BMOI process to change the covenants was revealing because 250 people voted in favor of the amendment. He presented for future discussion a proposed permitting and compliance enforcement process he put together in the event the ordinance passes. He explained that resident Alicia Guerra had proposed the formation of a "chicken guild" made up of chicken owners who would assist with self-enforcement and reporting to the Town relative to the requirements of the ordinance. Commissioner Wilkins noted that although communities such as Denver do allow chickens, neighborhoods more similar to Bow Mar, such as Columbine, do not. In addition, he noted that Aurora, Northglenn, Thornton, and Westminster do not allow chickens.

Comments were heard from the public. Two residents (Ann Justen, Jonathan Bush) expressed disfavor with the neighbor consent requirement as not consistent with other ordinances and that it created the possibility of neighbor discord. Mr. Bush also thought the 50 foot setback requirement was not consistent and would lead to too many variance requests.

Chuck Pratt, a resident who formerly had kept chickens expressed regret that the Board has spent so much time and energy to make this amendment, at his initial request. He said he has totally removed his chickens and the coops in an effort to remove the nuisance bothering his neighbors. He said he was unaware that the chickens were bothering them until a number of months after he came to the Board with his request.

Jane Carlson read a letter from resident Brenda Sears also expressing concern about the neighbor consent requirement and the possibility of the provision leading to disagreements between neighbors.

Resident Tom Leonard urged the Board to figure out how the BMOI covenants and Town ordinances interact. Mayor Pilgrim reported that such an effort was already underway with a meeting he conducted with BMOI President Jane Carlson and Town Attorney Jack Reutzel. Mayor Pilgrim also noted that letters had been received from Alice Bush, Jonathan Bush and Tom Deats and the Trustees confirmed they had read copies of those letters.

A motion was made to approve Ordinance #268. Guilford/McKittrick. Mayor Pilgrim asked if there were any amendments to be proposed. A motion was made to delete the neighbor consent requirement in the proposed ordinance. Guilford/Giese. Discussion ensued on the proposed amendment. Commissioners McLaughlin and Tulloch noted that homeowners are supposed to talk to neighbors about plans for additions to their homes, sheds and new landscaping. It was noted that this requirement doesn't preclude you from building but assures notice to neighbors – an informal process. Mayor Pilgrim stated that there is a distinction between getting permission (chickens) and providing advisement (ACC issues). Ms. Cole explained that she was trying to simplify the process and not require ACC approval for the construction of a chicken coop and that the neighbor approval process was intended to eliminate the ACC step. No ACC approval is required under the IBC for a structure under 120 sq ft because it is not considered an "accessory structure." Her thought is that getting permission at the front end solves a lot of potential neighbor problems. Mayor Pilgrim said he thinks there are plenty of checks and balances in the ordinance.

A vote proceeded on Commissioner Guilford's proposed amendment to the ordinance which failed by a vote of 2 to 4. The Ordinance as written was put to a vote. Mayor Pilgrim explained that a simple majority was required for amendments to Chapter 7 of the Code and a roll call vote was held. The vote was tied 3-3, with Mayor Pilgrim casting the tie-breaking vote to approve the ordinance change by a vote of 4-3.

Giese	Yes	McLaughlin	No
Guilford	Yes	Tulloch	No
McKittrick	Yes	Wilkins	No
Pilgrim	Yes		

It was noted that Ordinance #268 will take effect in 30 calendar days. Both new ordinances will be posted on the website.

Consent Agenda After a minor amendment was made, the Board moved to approve the Minutes of the October Meeting, the Treasurer's Report and payments made through November 21, 2011. Tulloch/Giese/Unanimous

Commissioner Reports

Public Safety – Commissioner Gary Guilford and Sergeant Greg Bowman reported that there were 56 citations issued in October, including 11 in Bow Mar and 26 Bow Mar calls for service. Of note was a fraud report in which an unknown person sent in a change of address request on behalf of an unknowing resident. The matter continues to be investigated.

Finance - Commissioner John Giese reported on the Town financials as of October 31. The Town has \$215,820 in total assets vs. last year for the same period at \$199,261. Total revenue collected is at 95% of budget because most property taxes have been collected for the year. Total expenses are at 83% of budget broken down as follows: general government expense - 79%, Parks & Rec. - 80 %, Public Works - 98%, Public Safety 83%. Operating surplus is \$27,507, net non-recurring income is \$43,686, for a total net surplus of \$71,193. The Board approved the October financial report. Guilford/Tulloch/Unanimous.

Building - Commissioner Elizabeth Tulloch reported that a couple of larger projects were issued permits this month. Building in Town seems to be on the rise compared to the past few years, with a regular stream of smaller projects and a few major projects possible in the next year. There was brief discussion concerning the need to inquire about the continued presence of an open dumpster at 5055 Lakeshore Drive. Commissioner Tulloch will follow up again to obtain an update.

Parks & Recreation - Commissioner Carrie McLaughlin reported that the new Berry entrance sign has been installed and comments have been favorable. She said the wood for the sign is a cross-cut from an old sequoia tree which was obtained from a local distributor. She has ordered some solar spotlights to see if that will better illuminate the sign - it is a dark corner without electrical power. She also reported that the holiday decorations would be installed at the entrances soon. She is looking for a place to store the decorations after the holiday season and locations at the Beach were discussed with BMOI President Jane Carlson.

Public Works – Commissioner MerleMcKittrick reported that crack sealing of the roads has been completed for the year.

Intergovernmental – Commissioner Rick Wilkins reported that he had met with former Mayor of Littleton and they discussed, among other matters, DRCOG’s state area agency on aging and the tremendous resources they have available which might benefit our senior residents. He will be discussing the services available with resident Ann Pitinga, who has volunteered to act as a “senior ombudsman” to help connect Bow Mar’s seniors with available State and County services. Further information is available on DRCOG’s website at drcog.networkofcare.org. He noted that Mayor Pilgrim made a presentation in November to the DRCOG Board about options for local transportation funding.

Clerk Comments Town Clerk Karen Reutzel reported that the next Regular Meeting will be held on December 12 – one week earlier than normal in order to meet State

budgeting deadlines. She reported on the final results of the Road Bond Election Issue 2J as follows:

Total Votes: Yes: 184 (42.79%) No: 246 (57.21%)

Arapahoe County: Yes: 140 (46.67%) No: 160 (53.33%)

Jefferson County: Yes: 44 (33.85%) No: 86 (66.15%)

Ms. Reutzel reported she has been contacted by a company who was interested in holding an electronic recycling event at no cost to Town residents. We would need to coordinate such an effort so as not to interfere with Robin Gamel's computer recycling program which benefits Goddard Middle School students. The Board was in favor of investigating such an event further, which if approved, would be held in January. She further reported that she spoke with our regional representative at the Department of Local Affairs for the State of Colorado and learned that currently there are no grant funds available to assist the Town update and re-codify its Municipal Code.

Attorney Comments Interim Town Attorney Jack Reutzel had no comments.

Mayor's Report Mayor Rick Pilgrim reported that he recently attended a reception for the Metro Mayors' Caucus which gave him the opportunity to meet with a number of state legislators, including our state representative Kathleen Conti. Redistricting was a hot topic of conversation among the group.

BMOI Report - BMOI President Jane Carlson reported that the BMOI annual meeting was held and three new Board members elected: Margo Ramsden, Morgan Schilling, and Andy Kane. She said the Board has approved a new memorial stone at the fire pit for longtime residents Harry and Suzy Johnston who recently passed away. Santa at the Beach will be held December 18th. Two more houses have sold and at least one of the two families has already moved in. BMOI's request to the Town to assist with the cost of printing the Bulletin was discussed.

Old Business -

First Reading of 2012 Budget Ordinances and Discussion and Possible Action Regarding 2012 Budget –

Commissioner John Giese presented the proposed budget for 2012. The budget will not be finalized until final certifications of assessed values are received from Arapahoe and Jefferson Counties on December 1. The budget projects \$430,000 in revenues and expenses, resulting in a balanced budget. Of note is a budgeted amount of \$25,000 for updating and re-codifying the Town's Municipal Code, which was last done in 1995. Giese also presented the 5.5% property tax limit calculations. The titles of the three required budget ordinances were read into the record, and tabled until the next meeting when final numbers will have been received from the counties. A public hearing on the budget will be held at the Board's December 12 regular meeting.

Election Wrap-up – The Board discussed how best to address the Town’s roads after the defeat of the road bond issue in the November election. Mayor Pilgrim suggested that perhaps a Plan B to fix roads was required. The Town could ask the voters to retain the mill levy for the debt fund once the Mary’s Meadow bonds retire in 2014 and earmark those funds to address the road issue. He explained this would technically be considered a tax increase requiring a vote, even though it would be a net zero tax effect to taxpayers. He suggested that perhaps the Town would need to go back to just doing an overlay as opposed to a rebuild program. The program would be a “pay-as-you-go” with a budget of about \$100,000 per year to fix roads, although that money would not be available until after the Mary’s Meadow bonds are paid off. Pilgrim urged the Trustees to think about a Plan B. Commissioner McKittrick said the Town could consider not plowing after snowstorms like other jurisdictions such as Littleton in order to free up funds for necessary road repairs. He also suggested it might be time for another survey of the residents with regard to road issues and to determine the reasons behind the defeat of the bond issue. Mayor Pilgrim recognized Commissioner McKittrick and resident Ann Justen who worked very hard on the pro-road committee. He also recognized resident Steve Clark who did a tremendous amount of work on financing issues.

New Business

Discussion Regarding Potential Services Available to the Town from the Statewide Internet Portal Authority (SIPA) – Commissioner Wilkins reported that he, Mayor Pilgrim and Town Clerk Reutzel had met with a representative of SIPA about services it might provide to the Town such as assisting us to design, build and host a state of the art website at no cost to the Town. The website could potentially include the Town, BMOI and the Bow Mar Water & Sanitation District, if interested. It was discussed that a working group needs to be assembled from the various entities who could talk about how this might look and be accomplished. Commissioner Wilkins will convene such a group to include resident Peter Duray-Bito who maintains the current website as well as a BMOI representative.

Review and Approval of Contract to Assist with Code Revisions – The Board reviewed a contract with Community Matters, Inc. who provided ordinance drafting services related to Ordinances #267 (Regarding Accessory Uses, Structures and Equipment) and #268 (Regarding the Care and Keeping of Chicken Hens) for a sum of \$3,900. A motion to approve the contract was made and approved. McLaughlin/Guilford/Unanimous.

King Property Update - Mayor Pilgrim reported that the sale of the King Property has closed. He said he understood the new owners plan to leave the property as it is, with the possible return to the property of some horses. Town Clerk Reutzel will be in contact with the King Estate representatives and ask them to formally withdraw their preliminary plat application. The Town will then notify parties who expressed interest in the subdivision process that it has been withdrawn.

At 10:02 p.m., a Motion was made and approved for the Board to go into Executive Session to confer with the Town Attorney for the purpose of receiving legal advice on specific legal questions pursuant to C.R.S. 24-6-402(4)(b). Tulloch//Wilkins/Unanimous.

At 10:44 p.m., the Board ended the Executive Session and Mayor Pilgrim resumed the regular meeting.

Adjournment There being no further business the meeting was adjourned at 10:46 p.m. Tulloch/Giese/Unanimous. The next Regular Meeting is scheduled for December 16, 2011 at No. 2 Middlefield Road, Columbine Valley, CO. The meeting will begin at 7:00 p.m.



Richard D. Pilgrim, Mayor



Karen V. Reutzl, Town Clerk and Treasurer